Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Meeting
Monday 18 March – Tuesday 26 March 2024

Virtual Meeting

Name of Registrant:	**Amber Vitai**
NMC PIN	77J3322E
Part(s) of the register:	Registered Mental Health Nurse – Sub Part 1 RN3: Mental health nurse, level 1 (1 January 1999)
Relevant Location:	Cornwall
Type of case:	Misconduct
Panel members:	Gregory Hammond (Chair, Lay member) Rosalyn Mloyi (Registrant member) Caroline Friendship (Lay member)
Legal Assessor:	Fiona Moore (18 -22 March 2024) Andrew Granville-Stafford (25 -26 March 2024)
Hearings Coordinator:	Tyrena Agyemang
Facts proved:	Charges 1a, 1b, 2a, 2b, 2c, 2d, 2e, 3a, 3b, 3c, 3d, 3e, 6a, 6b, 6c and 7
Facts not proved:	Charges 1c, 2f, 2g, 3f, 4a, 4b, 4c, 4d, 5a and 5b
Fitness to practise:	Impaired
Sanction:	**Striking-off order**
Interim order:	**Interim suspension order (18 months)**

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that that the Notice of Meeting had been sent to Mrs Vitai's registered email address by secure email on 13 February 2024. The notice had also been sent to a more recent email address, intimated to the NMC by Mrs Vitai on 6 July 2023.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegations and the fact that this meeting was to be held virtually between 18 and 26 March 2024.

In the light of all of the information available, the panel was satisfied that Mrs Vitai has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Details of charge

That you, a registered nurse:

1. Between November 2012 and October 2013 failed to:
    a) maintain contact / attend care coordination visits with Patient Z, as required/with sufficient regularity; **Proved**
    b) record monitoring of risks relating to Patient Z; **Proved**
    c) record medication relating to Patient Z; **Not Proved**

2. Between November 2012 and October 2013 failed to keep and/or cancelled one, or more, pre-planned appointments for Patient Z including on:
    a) 10 April 2013; **Proved**
    b) 13 June 2013; **Proved**
    c) 18 July 2013; **Proved**

d) 25 July 2013; **Proved**

e) 22 August 2013; **Proved**

f) 29 August 2013 **Not Proved**

g) 18 September 2013; **Not Proved**

3. Between November 2012 and October 2013 failed to ensure that the accurate reasons when cancelling one, or more, pre-planned appointments for Patient Z were recorded, including on:

a) 10 April 2013, when the reason for the cancellation was recorded as “Referral Transfer”; **Proved**

b) 13 June 2013, when no reasons for the cancellation and/or whether a follow up was planned were recorded; **Proved**

c) 18 July 2013, when no reasons for the cancellation and/or whether a follow up was planned were recorded; **Proved**

d) 25 July 2013, when the reason for the cancellation was recorded as “Referral Transfer” and/or no further appointment was recorded; **Proved**

e) 22 August 2013, when no reasons for the cancellation and/or whether a follow up was planned were recorded; **Proved**

f) 18 September 2013, when the reason for the cancellation is recorded as “Referral Transfer”; **Not Proved**

4. Between August 2012 and December 2013 failed to complete/update the following information/documentation in relation to Patient Z:

a) Case Coordinators information on the RiO system; **Not Proved**

b) Care Plan; **Not Proved**

c) Risk Assessment; **Not Proved**

d) CPA review/documents; **Not Proved**

5. Failed to ensure that Patient Z:

a) Received care in line with the Enhanced CPA; and/or **Not Proved**

b) Was assessed and/or recorded that as having their CPA status changed from ‘Standard’ to ‘Enhanced’; **Not Proved**

6. Failed to communicate with Patient Z’s consultant psychiatrist and/or other

treating clinicians:

a) Following Patient Z's self- reduction in prescribed medication from; **Proved**

b) Following a break in contact with Patient Z between May and October 2013; **Proved**

c) to monitor and/or initiate regular contact with Patient Z, so as to ensure that risks could be observed and responded to and/or intervention given in a timely manner. **Proved**

7. Failed to participate in Cornwall Partnership NHS Foundation Trust's internal investigation, [PRIVATE]. **Proved**

AND, in light of the above, your fitness to practise is impaired by reason of your misconduct.

Background

The charges arose whilst Mrs Vitai was employed as a Community Psychiatric Nurse in the role of a Care Coordinator at Cornwall Partnership NHS Foundation Trust ("the Trust").

The NMC received a referral from the Trust on 8 August 2014 in relation to allegations involving Patient Z [PRIVATE]. Mrs Vitai was the allocated Care Coordinator for Patient Z from November 2012 on her discharge from hospital. Patient Z was admitted to hospital for a second time in October 2013.

On 8 November 2013, Patient Z commenced home leave and was supported in the community by the Home Treatment Team and her family. [PRIVATE].

The Trust launched a serious incident investigation to review and scrutinise the care and treatment that had been provided to Patient Z, identify learning, root causes and any issues that may have impacted on the incident, such as service delivery and other contributory or contextual factors. The internal investigation found deficiencies with the care provided by Mrs Vitai relating to lack of contact, poor recording keeping and poor care planning. [PRIVATE].

Mrs Vitai failed to participate in the internal investigation, [PRIVATE], on the basis that she had retired on 18 February 2014, three months before being asked to contribute.

Decision and reasons on facts

There were no admissions to the charges. In reaching its decisions on the disputed facts, the panel took into account all the documentary evidence in this case together with the written representations made by the NMC.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

The panel had regard to the written statements of the following witness on behalf of the NMC:

- Witness 1: The Adult Safeguarding Lead Professional, Prevent Lead and MAPPA SPOC and the Trust's joint Investigation Officer

The panel considered the documentary evidence provided by the NMC in the meeting bundle and the NMC's written Statement of Case. Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor.

The panel considered the evidence of Witness 1 and had no reason to doubt that her evidence was truthful and accurate to the best of her recollection. However, the panel noted that Witness 1 was not a direct witness to any of the allegations and that she was one of two designated persons that carried out the Trust's internal investigation. It also considered that a number of the policy documents exhibited by Witness 1 post-date the matters outlined in the charges.

The panel took into account the directions set out by the previous panel and noted that a number of documents they requested were still missing and had not been provided. The panel therefore went on to make its determination on the facts of the case with the documents before it.

The panel considered each of the disputed charges and made the following findings.

Charge 1a

1. Between November 2012 and October 2013 failed to:

    a) maintain contact / attend care coordination visits with Patient Z, as required/with sufficient regularity;

This charge is found proved.

In reaching this decision, the panel took into account that it had clear evidence to demonstrate Mrs Vitai was Patient Z's allocated Care Coordinator.

The panel noted that it did not have before it a Trust policy that was valid for the period of time as set out in the charge. Therefore, the panel could not satisfy itself of the full meaning of *"as required"* as it did not have a policy which set out the Trust's documented expectations of Mrs Vitai. Witness 1 provided a description of the responsibilities of the Care Coordinators in her witness statement. The panel also had the RiO records which clearly evidence that a number of appointments were made by Mrs Vitai and then cancelled. This resulted in the patient not being seen for a period of three months on one of the occasions.

The panel noted that there was an approximate monthly schedule of appointments made by Mrs Vitai and that Patient Z was seen on 15 May 2013. It considered that, having made the appointments, Mrs Vitai must have seen them as necessary and was likely to be setting them up according to policy guidance and the plan of care in place at the time. Therefore, even in the absence of a valid Trust policy outlining the Care Coordinator's

responsibilities, not seeing a patient for over three months was insufficient regularity and not consistent with the responsibilities of the Care Coordinator as outlined in Witness 1's statement.

The panel therefore determined that Mrs Vitai did not maintain contact or attend care coordination visits with Patient Z with sufficient regularity.

This charge is therefore found proved.

Charge 1b

1. Between November 2012 and October 2013 failed to:

    b) record monitoring of risks relating to Patient Z;

This charge is found proved.

In reaching this decision, the panel took into account all the evidence it had before it, including the extant Trust policy, Clinical Risk Assessment and Risk Management Policy for Cornwall Foundation Trust Clinical Services. The panel considered that, as the Care Coordinator, Mrs Vitai was responsible for monitoring risks for Patient Z whilst she was in the community.

The panel had evidence before it that the Home Treatment Team had the responsibility of Patient Z, for a brief period, but from November 2012 to October 2013, Patient Z was primarily in the care of Mrs Vitai.

The panel noted that there was one entry in the RiO notes where Mrs Vitai had recorded the risks in relation to Patient Z, but generally risk information was not recorded by her in her RiO notes.

The panel examined the entries when Mrs Vitai recorded risk related behaviours in her RiO notes. On 15 May 2013, Patient Z had decided to reduce her medication without

medical advice. The panel could not see any evidence in Mrs Vitai's notes that this new information was used to monitor or review risk in respect of Patient Z. The panel noted that the RiO notes read:

"Significant: No Added to Risk History: No"

The panel noted that on 17 October 2013, when Patient Z was found sitting on the edge of a cliff in a distressed state by the Police, there is no evidence before it in the RiO notes that Mrs Vitai assessed the risks relating to Patient Z after this incident. The panel noted that the RiO notes read in relation to this date:

"Significant: No Added to Risk History: No"

The panel was therefore satisfied on the balance of probabilities that Mrs Vitai did not carry out or record ongoing monitoring of the risks relating to Patient Z. Therefore, this charge is found proved.

Charge 1c

1. Between November 2012 and October 2013 failed to:

c) record medication relating to Patient Z;

This charge is found NOT proved.

In reaching this decision, the panel took into account the evidence before it. It noted that there are numerous medications prescribed to Patient Z and mentioned within the documentation before it and that the charge itself lacked clarity as to which medication it was referring to.

The panel noted the absence of a policy which might outline Mrs Vitai's duty in relation to recording medication. The panel was of the view that there are records completed by Mrs Vitai detailing the medication Patient Z had been prescribed.

The panel concluded that, due to the lack of clarity within the charge, it could not establish Mrs Vitai's duty and any subsequent failures. Therefore, the panel determined that the NMC has failed to discharge the burden of proof in relation to this charge. Accordingly, this charge is found not proved.

Charge 2a, 2b, 2c, 2d and 2e

2. Between November 2012 and October 2013 failed to keep and/or cancelled one, or more, pre-planned appointments for Patient Z including on:

a) 10 April 2013;
b) 13 June 2013;
c) 18 July 2013;
d) 25 July 2013;
e) 22 August 2013;

These charges are found proved.

In reaching this decision, the panel considered the evidence in relation to each charge separately. It took into account the RiO records, which clearly evidence that there were pre-planned appointments scheduled for Mrs Vitai to meet with Patient Z on the dates outlined in charges 2a, 2b, 2c, 2d and 2e, and these were all cancelled and not kept.

The panel acknowledged that there were no other notes on the RiO records in the continuous written record section to detail why the appointments were cancelled by Mrs Vitai.

Based on the evidence before it, the panel determined that Mrs Vitai did fail to keep and/or cancelled the pre-planned appointments with Patient Z in charges 2a, 2b, 2c, 2d and 2e.

These charges are therefore found proved.

Charge 2f

2. Between November 2012 and October 2013 failed to keep and/or cancelled one, or more, pre-planned appointments for Patient Z including on:

f) 29 August 2013

This charge is found NOT proved.

In reaching this decision, the panel considered the evidence in relation to this charge. When considering the appointment scheduled on 29 August 2013, the panel acknowledged from the RiO records that Patient Z had cancelled the appointment on this occasion due to a short overseas trip and therefore she would not be available. The panel considered that a note was made on the RiO records about the cancellation on 28 August 2013, which was the day before the appointment.

The panel considered that, although the appointment was cancelled, the cancellation was not initiated by Mrs Vitai. Therefore, this charge is found not proved.

Charge 2g

2. Between November 2012 and October 2013 failed to keep and/or cancelled one, or more, pre-planned appointments for Patient Z including on:

g) 18 September 2013;

This charge is found NOT proved.

In reaching this decision, the panel considered the evidence in relation to this charge. The panel acknowledged in the Independent Psychiatric Report dated February 2016 that Mrs Vitai was on sick leave:

"The care co-ordinator was absent from work between 6 Sep and 1 Oct." [sic]

The panel noted that this appointment was scheduled to occur whilst Mrs Vitai was on sick leave and therefore she could not have attended. Further it noted that the cancellation of the appointment was documented in the RiO notes on 16 September 2013, and was input by a member of the "*Administrative"* staff stating:

"Message left on client's answerphone informing cancellation of appointment on Wednesday 9 September 2013 at 10am at client's home address due to Amber being on sick leave.

…

****Wednesday 18th September 2013*** not 9 Sept as previously noted" [sic]*

The panel determined that as Mrs Vitai was on sick leave, there is no failure on her part.

The panel finds this charge not proved.

Charges 3a and 3d

3. Between November 2012 and October 2013 failed to ensure that the accurate reasons when cancelling one, or more, pre-planned appointments for Patient Z were recorded, including on:

a) 10 April 2013, when the reason for the cancellation was recorded as "Referral Transfer";

d) 25 July 2013, when the reason for the cancellation was recorded as "Referral Transfer" and/or no further appointment was recorded;

These charges are found proved.

In reaching this decision, the panel took into account all the evidence before it and considered the evidence in relation to each charge.

The panel considered Witness 1's witness statement, where she explained what Referral Transfer meant:

> *'"Referral Transfer". This is where a service user has been discharged or moved / referred from one service to another.'*

Based on the copy of RiO referrals for Patient Z between 1 August 2012 and 14 November 2013, the panel noted that at the times specified in the charges, Patient Z had not been referred or transferred to another service. Therefore, the panel considered that the use of this reason for the cancellation of the appointment was inaccurate.

The panel noted that no alternative appointments were made and documented in the RiO records for the patient following these cancellations.

In light of this evidence, the panel determined that Mrs Vitai had failed to ensure that the accurate reasons were recorded when cancelling pre-planned appointments for Patient Z, on both 10 April 2013 and 25 July 2013.

These charges are therefore found proved.

Charges 3b, 3c and 3e

3. Between November 2012 and October 2013 failed to ensure that the accurate reasons when cancelling one, or more, pre-planned appointments for Patient Z were recorded, including on:

> b) 13 June 2013, when no reasons for the cancellation and/or whether a follow up was planned were recorded;
> c) 18 July 2013, when no reasons for the cancellation and/or whether a follow up was planned were recorded;

e) 22 August 2013, when no reasons for the cancellation and/or whether a follow up was planned were recorded;

These charges are found proved.

In reaching this decision, the panel took into account its finding in relation to charges 3a and 3d.

The panel had regard to the RiO records and first determined that the appointments on 13 June, 18 July and 22 August 2013 had all been cancelled by Mrs Vitai. It noted that there was no other information other than the generic reason, "*cancelled by HCP"* [Health Care Professional] listed, although there was a second entry for 13 June 2013, which used *"Referral Transfer"* as the reason. Further, the panel could not see in the records any legitimate reasons for the cancellation of any of the appointments as there was no information input by Mrs Vitai, including in the continuous written record section. Also, there was no record of a planned follow up.

The panel acknowledged due to the cancellation of the appointments listed in charge 3b, 3c and 3e that this resulted in Patient Z not seeing the Care Coordinator responsible for her care for a period of three months. This, the panel has already determined, was an insufficient level of care.

The panel considered the inquest interview notes with Patient Z, where she recalls she had contacted Mrs Vitai, as she had not seen her Care Coordinator for some time.

Accordingly, in light of all the evidence, the panel determined that Mrs Vitai had failed to ensure that the accurate reasons when cancelling pre-planned appointments for Patient Z on 13 June 2013, 18 July 2013 and 22 August 2013 were recorded and no follow up appointments were made or recorded.

Therefore, these charges are found proved.

Charge 3f

3. Between November 2012 and October 2013 failed to ensure that the accurate reasons when cancelling one, or more, pre-planned appointments for Patient Z were recorded, including on:

f) 18 September 2013, when the reason for the cancellation is recorded as “Referral Transfer”;

This charge is found NOT proved.

In reaching this decision, the panel took into account its finding in relation to charges 2g. It noted that this appointment was scheduled during Mrs Vitai’s sick leave between “*6 Sep and 1 Oct*” [sic] and although the generic *“Referral Transfer”* reason was input, this was not completed by Mrs Vitai. RiO records show that a member of administrative staff cancelled the appointment and made the note and, therefore Mrs Vitai cannot be held accountable.

This charge is therefore found not proved.

Charge 4a

4. Between August 2012 and December 2013 failed to complete/update the following information/documentation in relation to Patient Z:

a) Case Coordinators information on the RiO system;

This charge is found NOT proved.

In reaching this decision, the panel took into account that RiO was updated to reflect that Mrs Vitai was the allocated Care Co-ordinator from the point she became responsible for the care of Patient Z, although it was unclear when the information was recorded on RiO and why or when it required to be updated.

The panel considered the wording of this charge to be vague and could not find any evidence to support the wording of the charge, including any policy document extant for the relevant period or the blank pages from the RiO notes. Accordingly, it determined that the NMC had failed to discharge its duty under the burden of proof.

The panel finds this charge not proved.

Charge 4b

4. Between August 2012 and December 2013 failed to complete/update the following information/documentation in relation to Patient Z:

b) Care Plan;

This charge is found NOT proved.

The panel considered a care plan to be a specific document, usually written in a Trust template rather than a *"plan"* or *"plan of care"* completed in the continuous written record.

In reaching this decision, the panel took into account that it had not been provided with any templated care plans or a plan of care for Patient Z, or any documents that demonstrate a care plan was not completed, nor had it been provided with a Trust policy that was extant for the relevant period which outlined the expectations in this regard or Mrs Vitai's obligation.

The panel acknowledged that a number of people mentioned that Mrs Vitai had failed to complete a care plan for Patient Z in their evidence during the inquest. However, the panel could not determine on the evidence before it, whether this was repeated information from the internal investigation report or an independent conclusion from each person.

The panel determined that the NMC has not provided evidence of the responsibility for completion/update in the absence of a care plan. The panel noted that a care plan is

mentioned in the [PRIVATE], which suggests that one may have been completed at some stage, but it had not been provided with this evidence.

In light of this, the panel finds that the NMC has failed to discharge its burden of proof and this charge is therefore not proved.

Charge 4c

4. Between August 2012 and December 2013 failed to complete/update the following information/documentation in relation to Patient Z:

c) Risk Assessment;

This charge is found NOT proved.

The panel considered a risk assessment to be a specific document usually written in a Trust template.

The panel had regard to the Clinical Risk Assessment and Risk Management Policy for Cornwall Foundation Trust dated 14 October 2010, which stated:

"RiO offers a number of places in which risk management plans can be recorded. These include;

- *Main care planning menu*
- *The crisis and contingency planning fields*
- *For plans that cannot be shared with the service user, the risk assessment summary field"*

However, the panel was not provided with any of these sections from RiO.

The panel saw some examples of risk related behaviours recorded in the RiO notes by Mrs Vitai but no formal risk assessment. The panel acknowledged that there was no

policy before it from the relevant period to state how the records should be completed and updated or any other details pertaining to Mrs Vitai's duty in this regard.

The panel took into account that there is no record keeping policy, RiO policy or any blank record from the correct period, which evidences that the risk assessment was not completed. This prevented the panel from establishing Mrs Vitai's duty and any failure on her part.

The panel determined based on all the evidence before it, that the NMC has failed to discharge its duty under the burden of proof.

The panel finds this charge not proved.

Charge 4d

4. Between August 2012 and December 2013 failed to complete/update the following information/documentation in relation to Patient Z:

d) CPA review/documents;

This charge is found NOT proved.

In reaching this decision, the panel took into account that it did not have before it a Trust policy which covered the relevant time in the charge, which would clearly outline Mrs Vitai's responsibilities. The panel was also not provided with a copy of Patient Z's Care Plan Approach (CPA) review/documents. Therefore, it could not ascertain any dates on which it was completed or updated.

The panel considered that the CPA was managed by the Multi-Disciplinary Team (MDT) and not all sections of the CPA review/documents would have been Mrs Vitai's responsibility.

The panel had before it no evidence to support the charge and demonstrate which parts of the CPA review or documents Mrs Vitai had failed to complete/update.

In the absence of the relevant policy, the panel had nothing to prove Mrs Vitai's duty or what she did and did not comply with. The panel determined that the NMC has failed to discharge its duty under the burden of proof.

Therefore, this charge is found not proved.

Charges 5a and 5b

5. Failed to ensure that Patient Z:

a) Received care in line with the Enhanced CPA; and/or

b) Was assessed and/or recorded that as having their CPA status changed from 'Standard' to 'Enhanced';

These charges are found NOT proved.

In reaching this decision, the panel took into account all the evidence before it. It could not establish anywhere in the evidence an indication that Patient Z was on an enhanced level of care. The panel acknowledged from Witness 1's statement that Patient Z was on a standard level of care, and that the CPA status did change at some stage, but it did not have an indication of when that change occurred.

The panel noted the policy before it post-dates the charge and therefore cannot be relied upon. In light of this, the panel could not refer to any document to understand what enhanced care is and whether Mrs Vitai had failed to provide it to Patient Z.

The panel determined that there was insufficient evidence to support these charges. It further determined that NMC had failed to discharge the burden of proof on the balance of probabilities and finds these charges not proved.

Charge 6a

6. Failed to communicate with Patient Z's consultant psychiatrist and/or other treating clinicians:

a) Following Patient Z's self- reduction in prescribed medication from;

This charge is found proved.

In reaching this decision, the panel considered the RiO records to be a primary source of information and that any changes or updates to a patient's care should documented in the records.

The panel referred to the RiO records, specifically the entry dated 15 May 2013, in which Mrs Vitai documents Patient Z's reduction of her medication, Pregabalin. The panel was therefore satisfied that Patient Z had told Mrs Vitai about her reducing her medication.

The panel considered, based on the information before it, that Mrs Vitai, in her role as Care Coordinator, should have communicated this update to other medical professionals involved in Patient Z's care, and that in the absence of this on the records, the panel have drawn the inference that she did not share this information.

In the absence of a relevant Trust policy, the panel referred to The Code: Standards of conduct, performance and ethics for nurses and midwives 2008' ("the Code"), which states:

> ***'Work with others to protect and promote the health and wellbeing of those in your care, their families and carers, and the wider community***
>
> ***Share information with your colleagues***

21 You must keep your colleagues informed when you are sharing the care of others.'

The panel determined that when a nurse is delivering care, they must communicate with others in accordance with the Code.

The panel therefore finds that Mrs Vitai failed to communicate with Patient Z's consultant psychiatrist and/or other treating clinicians, following Patient Z's self- reduction in prescribed medication. This charge is found proved.

Charge 6b

6. Failed to communicate with Patient Z's consultant psychiatrist and/or other treating clinicians:

b) Following a break in contact with Patient Z between May and October 2013;

This charge is found proved.

In reaching this decision, the panel took into account the specified dates in this charge.

The panel had regard to its earlier decision that, due to Mrs Vitai cancelling a number of appointments with Patient Z, there was a period of three months when the patient was not seen by her Care Co-ordinator. The panel had expected to see some communication in the RiO records, evidencing that Mrs Vitai had not seen the patient during this time or rescheduling the missed appointments, but there was nothing documented.

The panel noted that there was nothing documented in the patients records of any concerns Mrs Vitai may have had or any other support she had put in place in the light of the length of time Patient Z had gone without an appointment. There were also no alternative arrangements put in place with the MDT to see the patient. The panel considered that the MDT would have expected Mrs Vitai to have communicated with other professionals, but the panel had no evidence before it to confirm this was completed.

In light of this, the panel determined that Mrs Vitai did fail to communicate with Patient Z's consultant psychiatrist and/or other treating clinicians, following a break in contact with Patient Z between May and October 2013.

The panel therefore finds this charge proved.

Charge 6c

6. Failed to communicate with Patient Z's consultant psychiatrist and/or other treating clinicians:

> c) to monitor and/or initiate regular contact with Patient Z, so as to ensure that risks could be observed and responded to and/or intervention given in a timely manner.

This charge is found proved.

In reaching this decision, the panel took into account its earlier decisions in relation to the cancelled appointments and Mrs Vitai's failure to ensure Patient Z had regular contact with a medical professional in her absence. In light of the cancelled appointments the panel determined that Mrs Vitai failed to ensure that risks could be observed and responded to and/or intervention given in a timely manner.

The panel has already determined that Mrs Vitai did not arrange any alternative appointments or contact with Patient Z in her absence. The panel therefore had no evidence before it to demonstrate that Mrs Vitai put anything in place to manage any risks.

The panel considered the absence of any notes on RiO and that it would have expected Mrs Vitai to have documented something about the support and care in place for Patient Z in her absence.

Based on all the information before it, the panel determined that Mrs Vitai failed to communicate with Patient Z's consultant psychiatrist and/or other treating clinicians in

order to monitor and/or initiate regular contact with Patient Z, so as to ensure that risks could be observed and responded to and/or intervention given in a timely manner.

Therefore, the panel finds this charge proved.

Charge 7

7. Failed to participate in Cornwall Partnership NHS Foundation Trust's internal investigation, [PRIVATE].

This charge is found proved.

In reaching this decision, the panel took into account that Mrs Vitai retired from Cornwall Partnership NHS Foundation Trust on 18 February 2014, which was three months before the Trust's internal investigation commenced. In her statement, Witness 1 stated that Mrs Vitai "*refused"* to participate [PRIVATE] because of her retirement.

The panel noted that there is no evidence before it, such as an employment contract or a job specification, that Mrs Vitai was required to participate in the investigation after she had retired from nursing practice.

The panel noted Mrs Vitai's email to the Royal College of Nursing (RCN) dated 15 November 2022, which stated:

> *"I know that to continue to engage in what has now become a farcical investigation, considering it is nine years ago [PRIVATE] occurred, will achieve nothing in terms of addressing the issues and only cost me more sleepless nights and distress. Please close my case, any communication from the NMC will be ignored."*

The panel then had regard to The Code that was valid at the time, which stated:

> ***'Deal with problems***
>
> *…*

56 You must cooperate with internal and external investigations.'

The panel noted that Mrs Vitai's PIN remained live after her retirement from her job and thereafter remained live as a result of the NMC proceedings. Mrs Vitai's PIN will remain live until these proceedings conclude or beyond depending on the outcome and therefore she is still required to adhere the Code.

The panel considered that Mrs Vitai should have cooperated and participated in the Trust's investigation rather than disengage completely, in order to assist where possible. The panel was of the view that although there was no policy or contract to govern her actions as a registered nurse she was still required to adhere to The Code.

On the basis of all the evidence before the panel, it finds that Mrs Vitai did have a duty under the Code to participate in Cornwall Partnership NHS Foundation Trust's internal investigation and she failed to do so.

This charge is found proved.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider whether the facts found proved amount to misconduct and, if so, whether Mrs Vitai's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the

facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Mrs Vitai's fitness to practise is currently impaired as a result of that misconduct.

Representations on misconduct and impairment

In coming to its decision, the panel had regard to the case of *Roylance v GMC (No. 2)* [2000] 1 AC 311 which defines misconduct as a '*word of general effect, involving some act or omission which falls short of what would be proper in the circumstances*.'

In its written statement of case, the NMC invited the panel, to take the view that the facts found proved amount to misconduct. The panel was directed to the 2015 Code. However, it instead had regard to the terms of 'The Code: Standards of conduct, performance and ethics for nurses and midwives 2008' ("the Code") in making its decision, as this was the Code that was valid at the time.

The NMC's written statement of case addressing misconduct and impairment is as follows:

'Misconduct

25. The comments of Lord Clyde in Roylance v General Medical Council [1999] UKPC 16 may provide some assistance when seeking to define misconduct:

'[331B-E] Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rule and standards ordinarily required to be followed by a [nurse] practitioner in the particular circumstances'.

26. As may the comments of Jackson J in Calheam v GMC [2007] EWHC 2606 (Admin) and Collins J in Nandi v General Medical Council [2004] EWHC 2317 (Admin), respectively:

'[Misconduct] connotes a serious breach which indicates that the doctor's (nurse's) fitness to practise is impaired'.

And

'The adjective "serious" must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioner'.

27. Where the acts or omissions of a registered nurse are in question, what would be proper in the circumstances (per Roylance) can be determined by having reference to the Nursing and Midwifery Council's Code of Conduct.

…

29. We consider the conduct detailed in the charges fell far short of what would reasonably have been expected of a registered professional in Mrs Vitai's position.

30. As Patient Z's Care Coordinator, Mrs Vitai had a particular responsibility to ensure that the risks Patient Z posed to herself and others were appropriately managed. She failed to do so in a profound way. She routinely cancelled appointments, failed to keep records relevant to Patient Z's care up to date and failed to communicate significant developments in Patient Z's care with other professionals. [PRIVATE] it does at the conclusion of over a year of poor engagement with the care Mrs Vitai was responsible for coordinating, is demonstrative of Patient Z's significant needs and the unconscionable risk Mrs Vitai ran by, on even the most sympathetic analysis, neglecting her professional obligations. That she then failed to participate in the Trust's internal investigation when her interactions with Patient Z were plainly central to understanding what went wrong further underlines why fellow professionals would consider Mrs Vitai's conduct deplorable.'

The NMC requires the panel to bear in mind its overarching objective to protect the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body.

The NMC invited the panel in its written statement of case, to find Mrs Vitai's fitness to practise impaired on the following grounds:

'31. The NMC's guidance explains that impairment is not defined in legislation but is a matter for the Fitness to Practise Committee to decide. The question that will help decide whether a professional's fitness to practise is impaired is:

> *"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"*

32. If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired.

33. Answering this question involves a consideration of both the nature of the concern and the public interest. In addition to the following submissions the panel is invited to consider carefully the NMC's guidance on impairment.

34. When determining whether the Registrant's fitness to practise is impaired, the questions outlined by Dame Janet Smith in the 5th Shipman Report (as endorsed in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)) are instructive. Those questions were:

> *1. has [the Registrant] in the past acted and/or is liable in the future to act as so to put a patient or patients at unwarranted risk of harm; and/or*
> *2. has [the Registrant] in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or*
> *3. has [the Registrant] in the past committed a breach of one of the fundamental tenets of the [nursing] profession and/or is liable to do so in the future and/or*
> *4. has [the Registrant] in the past acted dishonestly and/or is liable to act dishonestly in the future.*

35. It is the submission of the NMC that 1, 2 and 3 can be answered in the affirmative in this case.

36. Plainly, Mrs Vitai's actions placed patients and others at an unwarranted risk of harm. [PRIVATE]. Further, the public rightly expect nurses involved in the care of mentally vulnerable [PRIVATE] people to practice in a way that protects and safeguards them and others. At a basic level this means having regular engagement with patients, keeping accurate records and communicating with other professionals. Mrs Vitai's failure to maintain her practice in respect of Patient Z at this basic level (or escalate if she could not do so) breached fundamental tenets of the profession and brought the profession into disrepute.

37. Impairment is a forward thinking exercise which looks at the risk the registrant's practice poses in the future. NMC guidance adopts the approach of Silber J in the case of R (on application of Cohen) v General Medical Council [2008] EWHC 581 (Admin) by asking the questions whether the concern is easily remediable, whether it has in fact been remedied and whether it is highly unlikely to be repeated.

38. The first question to consider is whether the concerns can be addressed. This is a difficult question. On one reading, the concerns are essentially clinical and could be addressed through training and supervision. However, we suggest that the length of time over which the failings set out in the charges occurred, the repetition of the conduct and the risk, which must have been obvious to Mrs Vitai, that was being run by practising in this way is suggestive of an attitudinal issue which is more difficult to resolve. In any event Mrs Vitai has indicated that she is now retired and expressed no interest in returning to the nursing profession. She has not provided a reflective piece for the NMC or panel to consider and there is therefore no basis to conclude that she had any insight into what went wrong in her practice

39. The second question to ask is whether the concern has been addressed. It has not been. As above, Mrs Vitai has indicated that she is retired. No doubt as a result of this, to the NMC's knowledge, she has taken no steps to strengthen her practice. In an email dated 15 November 2022 Mrs Vitai wrote to her legal representative

stating her intention to disengage from the NMC's fitness to practise proceedings and requesting they close her case.

40. The NMC considers there is a continuing risk to the public due to Mrs Vitai's lack of insight, remorse and regret.'

There were no written submissions on misconduct and impairment from Mrs Vitai.

The panel first considered misconduct and accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin), *Enemuwe v NMC* 2016 EWHC 1881 (Admin) and *General Medical Council v Meadow* [2007] QB 462 (Admin).

Decision and reasons on misconduct

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of 'The Code: Standards of conduct, performance and ethics for nurses and midwives 2008' ("the Code").

The panel was of the view that Mrs Vitai's failings did fall significantly short of the standards expected of a registered nurse, and that Mrs Vitai's failings amounted to a breach of the Code, specifically the following:

'Collaborate with those in your care
8 You must listen to the people in your care and respond to their concerns and preferences.

9 You must support people in caring for themselves to improve and maintain their health.

Work with others to protect and promote the health and wellbeing of those in your care, their families and carers, and the wider community
Share information with your colleagues

21 You must keep your colleagues informed when you are sharing the care of others.

22 You must work with colleagues to monitor the quality of your work and maintain the safety of those in your care.

Work effectively as part of a team
24 You must work cooperatively within teams and respect the skills, expertise and contributions of your colleagues.

28 You must make a referral to another practitioner when it is in the best interests of someone in your care.

Manage risk
32 You must act without delay if you believe that you, a colleague or anyone else may be putting someone at risk.

33 You must inform someone in authority if you experience problems that prevent you working within this code or other nationally agreed standards.

Keep clear and accurate records
42 You must keep clear and accurate records of the discussions you have, the assessments you make, the treatment and medicines you give, and how effective these have been.

43 You must complete records as soon as possible after an event has occurred.

Deal with problems
56 You must cooperate with internal and external investigations.'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct and reminded itself that for the facts found proved to amount to misconduct, it must be serious and fall far short of what would reasonably be expected of a registered nurse. The panel considered each charge found proved and whether it amounted to misconduct.

In relation to charge 1a, the panel considered Mrs Vitai's failure to maintain contact with Patient Z and attend care coordination visits with sufficient regularity did amount to misconduct.

The panel determined that as Patient Z's Care Coordinator, Mrs Vitai did not adequately carry out her role and responsibilities in relation to maintaining sufficient contact. It was of the view that Patient Z was allocated a Care Coordinator for a specific reason and regular contact was required to provide the necessary care and support, and Mrs Vitai's failure led to a lack of sufficient care for Patient Z.

The panel considered the facts found proved in charge 1b amounted to misconduct because Mrs Vitai's failure to record monitoring of risks in relation to Patient Z compromised any plans to manage the risk to her health and safety, which could have had a detrimental effect on the patient and the care they received. [PRIVATE].

When considering charges 2a, 2b, 2c, 2d and 2e, the panel firstly did not consider the fact that Mrs Vitai cancelled one appointment to be misconduct. However, the panel did consider that Mrs Vitai's failure cumulatively to keep a number of pre-planned appointments for Patient Z was misconduct. This failure resulted in Patient Z not being seen for over three months on one of the occasions. The panel has already determined that this was insufficient care and therefore charges 2a, 2b, 2c, 2d and 2e collectively amount to misconduct.

The panel considered whether charges 3a, 3b, 3c, 3d and 3e amounted to misconduct. It was of the view that documenting the correct reasons for cancelling a patient's appointment when delivering care to any patient, and accurate record keeping generally, is a fundamental tenet of nursing. In addition, not recording whether a follow-up appointment was planned, also falls short of professional nursing standards.

The panel acknowledged that it did not have any evidence of Mrs Vitai's RiO training competencies, a RiO operating manual and, although requested by the previous panel, this panel was still not provided with the full list of drop-down options that could be used to determine the appropriate option that should have been used in the circumstances. The panel also noted that, when the appointment on 18 September 2013 was cancelled by a member of the administrative team, *"Referral Transfer"* was used, which the panel noted was the inaccurate reasons cited on two occasions by Mrs Vitai.

However, the panel determined that Mrs Vitai could have entered the more appropriate of *"Cancelled by HCP",* then entered some text in the continuous written record section in RiO to outline why the appointments were cancelled in detail. As this was not carried out, the panel determined that this failure did amount to misconduct.

When considering misconduct in relation to charge 6a, the panel referred to the Code and acknowledged the importance of sharing information among medical professionals involved in a patient's care. It determined that, as Patient Z's Care Coordinator, Mrs Vitai should have communicated that the patient had reduced her medication to Patient Z's consultant psychiatrist and any other treating clinicians. This failure, the panel determined, did amount to misconduct.

When considering charge 6b, the panel reminded itself of its reasons in charge 1a that the long break amounted to insufficient contact with Patient Z. It determined that Mrs Vitai did not make any alternative arrangements to ensure that Patient Z was seen by any other treating clinicians during this time. Therefore, the panel found that this insufficient contact amounted to misconduct.

In relation to charge 6c, the panel determined that Mrs Vitai's failure to monitor and/or initiate regular contact, put Patient Z at serious risk of harm. As the Care Coordinator, failing to monitor Patient Z could have resulted in risks being missed, and any intervention required not being implemented. The panel concluded that this failure amounted to Mrs Vitai not delivering sufficient care and was therefore misconduct.

The panel determined in relation to charge 7 that, as Mrs Vitai's PIN was still active at that time, she had a duty to participate in the investigation despite her having retired from nursing. [PRIVATE]. The panel determined that other nursing professionals and ordinary members of the public would find Mrs Vitai's actions deplorable in the circumstances. Therefore, the panel finds that this failure does amount to misconduct.

Having considered all the charges individually and cumulatively, the panel finds that Mrs Vitai's actions did fall seriously short of the conduct and standards expected of a nurse and therefore amounted to misconduct.

Decision and reasons on impairment

The panel accepted the advice of the legal assessor.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. In paragraph 74, she said:

> *'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'*

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that her fitness to practise is impaired in the sense that S/He/They:

a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or

b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or

c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or

d) …'

The panel determined that limbs a, b and c of the test above are engaged in this case.

The panel was of the view that Patient Z was put at risk of physical and psychological harm as a result of Mrs Vitai's misconduct. The panel took into account the vulnerabilities of Patient Z and the ongoing concerns with her health and wellbeing. It considered the impact of the cancelled visits with no alternative support in place for Patient Z. It also bore in mind that Mrs Vitai failed to participate in the internal investigation [PRIVATE]. The panel determined that Mrs Vitai's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

The panel had no information before it to consider Mrs Vitai's insight because she had disengaged. It could not therefore assess her understanding of how her actions put Patient Z at a risk of harm, why what she did was wrong and how this impacted negatively on the reputation of the nursing profession. The panel therefore could only conclude that Mrs Vitai lacked sufficient insight into the failings in her practice.

The panel was satisfied that some of the misconduct in this case is capable of being addressed. However, it considered the concerns in relation to charge 7 to be attitudinal in nature and therefore not easily remediable. As Mrs Vitai had failed to engage in this matter after her retirement in February 2014, the panel had nothing before it to demonstrate any reflection, strengthening of her practice or remediation. The panel also had no information from Mrs Vitai that could further explain the circumstances at the time and outline any other contributing factors which may have affected her practice.

In light of this, the panel was of the view that there remains a risk of repetition, because although some of the misconduct is remediable, it has not yet been remediated. It therefore decided that a finding of impairment was necessary on the grounds of public protection.

The panel bore in mind the overarching objectives of the NMC to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that a finding of current impairment on public interest grounds was also required as a member of the public, aware of all the circumstances in this case would be concerned if the nurse against whom such concerns were found proved, was allowed to practise unrestricted.

In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Mrs Vitai's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mrs Vitai's fitness to practise is currently impaired.

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Mrs Vitai off the register. The effect of this order is that the NMC register will show that Mrs Vitai has been struck-off the register.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

Representations on sanction

The panel had regard to the NMC's written statement of case that stated:

> *'45. The NMC consider the appropriate and proportionate sanction in this case to be a striking off order. With regard to the NMC's sanctions guidance the following aspects have led us to this conclusion and looking at each of the sanctions in turn:*
>
> *No action or a caution order*
>
> *46. Taking into account our sanction guidance SAN-3a and SAN-3 the case is too serious for taking no action or a caution order. Mrs Vitai's conduct clearly presents a continuing risk to patients and undermined the public's trust in nurses. A caution order is only appropriate if there is no risk to the public or to patients requiring a nurse, midwife or nursing associate. Therefore, these sanctions are not sufficient to ensure public protection.*
>
> *Conditions of practice*
>
> *47. The NMC's sanctions guidance states that a conditions of practice order may be appropriate when there is no evidence of harmful deep-seated personality or attitudinal problems; there are identifiable areas of the registered professionals practice in need of assessment and/or retraining; and conditions can be created that can be monitored and assessed. It is submitted that a conditions of practice order would not be appropriate to*

address the concerns given that there is evidence that Mrs Vitai's behaviour could be as a result of personality or attitudinal problems. It is difficult to address the concerns in this case through re-training or assessment as Mrs Vitai has retired. It is submitted that it would be difficult to formulate workable conditions of practice which would address the concerns raised and protect the public.

A suspension order

48. Taking into account our sanction guidance SAN-3d, we note that this case does not involve a single instance of misconduct and does relate to conduct which evidences deep seated personality or attitudinal problems. That there has been no repetition of behaviour since the incident is not due to any work Mrs Vitai has done to strengthen her practice or reflect on what went wrong with Patient Z but simple an inevitable consequence of her having retired.

A striking off order

49. As per NMC guidance, a striking off order is likely to be appropriate when what a registrant has done is fundamentally incompatible with being a registered professional. However, being proportionate means finding a fair balance between the nurse, midwife or nursing associate's rights and our overarching objective of public protection. We need to choose a sanction that doesn't go further than we need to meet this objective. This reflects the idea of right-touch regulation, where the right amount of 'regulatory force' is applied to deal with the target risk, but no more. We considered whether a striking off order was appropriate and do consider that Mrs Vitai's conduct, coupled with her lack of engagement with the regulatory process, indicates her actions are fundamentally incompatible with continued registration.'

Decision and reasons on sanction

Having found Mrs Vitai's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Lack of insight into failings
- A pattern of misconduct over a period of time
- Conduct which put Patient Z at risk of harm.

The panel also took into account the following mitigating features:

- There was evidence that Mrs Vitai worked in an environment where supervision and support were lacking;
- There was a lack of evidence to demonstrate that Mrs Vitai had received RiO training; and
- Mrs Vitai was an experienced nurse with no previous regulatory concerns.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mrs Vitai's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mrs Vitai's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mrs Vitai's registration would be a sufficient and appropriate response. The panel is of the view that some of the misconduct identified in this case could be addressed through retraining. However, due to Mrs Vitai's disengagement with the NMC proceedings and that she retired from practice in February 2014, the panel was not satisfied or confident that Mrs Vitai would engage with any conditions placed on her registration. In addition, the panel was also not satisfied that any conditions imposed could adequately address the attitudinal concerns revealed by Mrs Vitai's misconduct in charge 7.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The panel determined that the misconduct, as highlighted by the facts found proved, was wide ranging and serious, and the misconduct in charge 7 was attitudinal in nature. The panel considered that Mrs Vitai's conduct breached the fundamental tenets of the profession and was fundamentally incompatible with her remaining on the register. The panel found that this was not a single instance of misconduct, but a pattern of behaviour over a period of time, and that Mrs Vitai has not demonstrated any insight or attempts to remediate her practice.

The panel therefore determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

Mrs Vitai's actions were departures from the standards expected of a registered nurse, and together with her lack of insight and engagement, are fundamentally incompatible with

her remaining on the register. There was also no evidence of remorse before the panel. The panel was of the view that the findings in this particular case demonstrate that Mrs Vitai's actions were serious and attitudinal in nature. Therefore, to allow her to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body. Mrs Vitai has not provided any information of strengthened practice and the panel determined that there is still a risk to patients.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the matters it identified, in particular the effect of Mrs Vitai's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself, the panel has concluded that nothing short of a striking-off order would be sufficient in this case.

The panel considered that this order was necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

This will be confirmed to Mrs Vitai in writing.

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Mrs Vitai's own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Representations on interim order

The panel took account of the written representations made by the NMC in its statement of case, which is as follows:

‘50. If a finding is made that the registrant’s fitness to practise is impaired on a public protection basis is made and a restrictive sanction imposed we consider an interim order in the same terms as the substantive order should be imposed on the basis that it is necessary for the protection of the public and otherwise in the public interest.’

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel’s determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months on the grounds of public protection and otherwise in the public interest to cover the 28-day appeal period.

If no appeal is made, then the interim suspension order will be replaced by the substantive striking off order 28 days after Mrs Vitai is sent the decision of this hearing in writing.

That concludes this determination.